

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 15, 2005

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning and Env. Resources

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM WORDING: Amendment to Section 9.5-349 (Shoreline Setbacks) of the Monroe County Land Development Regulations. **(First of one public hearing)**

ITEM BACKGROUND: On December 17, 2003 the Board of County Commissioners adopted Ordinance No. 049-2003 and 049A-2003, amending Policy 212.2.3 of the Monroe County Year 2010 Comprehensive Plan and Section 9.5-349 of the Land Development Regulations respectively, which provided for a reduction of the shoreline setback for smaller, legally developed lots. These changes have caused some confusion and community concern regarding community character and water views. Additionally, concerns raised by RV park owners regarding shoreline setbacks for RV spaces were not addressed in previous action. Therefore, in the interest of clarity and comprehensiveness and in order to eliminate conflicts within Section 9.5-349, and in response to the requests of citizens in affected communities, the Planning and Environmental Resources Department is proposing additional amendments to Sections 9.5-349(b) and 9.5-349(o).

At the May 25, 2005 meeting the Planning Commission reviewed the proposed amendments and voted to recommend APPROVAL to the Board of County Commissioners.

PREVIOUS RELEVANT BOCC ACTION: Ordinance 049A-2003, amending LDR Section 9.5-349

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: _____

BUDGETED: Yes ☐ No ☐

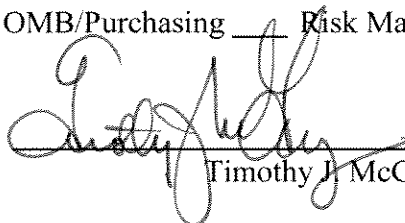
COST TO COUNTY: _____

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes ☐ No ☐ **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty ☒ OMB/Purchasing ☐ Risk Management ☐

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry, AICP

DOCUMENTATION: Included ☒ Not Required ☐

DISPOSITION: _____

AGENDA ITEM # _____

BOCC DRAFT ORDINANCE

AN ORDINANCE AMENDING THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS, CHAPTER 9.5, SECTIONS 349(b) AND 349(o), REGARDING SHORELINE SETBACKS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES INCONSISTENT HERewith; PROVIDING FOR INCORPORATION INTO THE MONROE COUNTY CODE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) IN ACCORDANCE WITH FLORIDA STATUTES.

WHEREAS, Objective 101.8 of the Monroe County Year 2010 Comprehensive Plan calls for the elimination or reduction in frequency of structures or uses which are inconsistent with applicable codes and land development regulations; and

WHEREAS, Policy 212.2.3 of the Monroe County Year 2010 Comprehensive Plan establishes a principal structure setback of at least twenty (20) feet along altered shorelines including manmade canals, channels, and basins; and

WHEREAS, many smaller residential lots along lawfully altered shorelines were legally developed prior to the Comprehensive Plan with principal structures set back within the twenty (20) foot shoreline setback; and

WHEREAS, while older homes could continue to be maintained, replacement of ground level and mobile homes with larger, FEMA approved raised modular homes on smaller lots was not possible due to the shoreline setback requirement; and

WHEREAS, on December 17, 2003, the Board of County Commissioners adopted Ordinance No. 049-2003 and Ordinance No. 049A-2003 amending Policy 212.2.3 of the Comprehensive Plan and Section 9.5-349 of the Land Development Regulations, respectively, which provided for a reduction of the shoreline setback for smaller, legally developed lots; and

WHEREAS, those amendments resulted in some confusion and citizen concerns in affected communities where redevelopment is occurring; and

WHEREAS, conflicts exist within Section 9.5-349 regarding the application of those amendments; and

WHEREAS, new issues regarding shoreline setbacks in recreational vehicle (RV) parks have arisen which were not addressed in the previous amendments to Section 9.5-349; and

WHEREAS, the Monroe County Planning and Environmental Resources Department is proposing additional amendments to Section 9.5-349 of the Monroe County Land Development Regulations in the interest of clarity and comprehensiveness, in order to eliminate conflicts within that section, and to address new concerns regarding shoreline setbacks within RV parks; and

WHEREAS, at a regular meeting on May 3, 2005, the Development Review Committee considered the proposal and recommended approval of the proposed amendments to the Planning Commission in Resolution No. D25-01; and

WHEREAS, at a regular meeting on May 25, 2005, the Monroe County Planning Commission, sitting as the local planning agency, after due notice and public participation in the public hearing process, conducted a public hearing and recommended approval of the proposed amendments to the Board; and

WHEREAS, based on the above findings, the Board has determined that it is necessary and desirable to amend the above referenced Land Development Regulations; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that:

Section 1. Section 9.5-349 of the Monroe County Land Development Regulations is hereby amended to read as follows:

Amended language is presented in ~~strike through~~ / underline format.

Section 9.5-349(b)

- (1) Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures shall be set back at least twenty (20) feet as measured from the mean high water (MHW) line, except as allowed in (2), below:
- (2) Along lawfully altered shorelines including manmade canals, channels, and basins, which are developed with a lawfully established principal use, the required setback on parcels less than 4,000 square feet may be reduced to a minimum of ten (10) feet provided that;
 - a. The total combined area of all structures, principal and accessory, does not occupy more than sixty (60) percent of the upland area of the required twenty (20) foot shoreline setback;

- b. The proposed development protects the character and over water views of the community;
- c. Shoreline vegetation is protected;
- d. Open space ratios are maintained;
- e. Stormwater runoff from the entire site is managed on-site using Best Management Practices utilizing berms and infiltrating runoff;

~~(2)~~ (3)

~~(3)~~ (4)

Section 9.5-349(o)

- (4) All principal structures lawfully existing within the shoreline setback along manmade canals, channels, or basins, ~~or serving three or fewer dwelling units on any shoreline,~~ on parcels less than 4,000 square feet may be rebuilt in the same footprint provided that there will be no expansion of the footprint within ten (10) feet of the mean high water (MHW) line and there will be no adverse impacts on stormwater runoff, navigation or turtle nesting habitat.
- (5) In licensed RV parks adjacent to manmade canals, channels, or basins, road ready vehicles may be parked no closer than ten (10) feet from the mean high water (MHW) line provided that;
 - a. No previously approved site plan has established shoreline setbacks greater than ten (10) feet from mean high water (MHW) for RV parking;
 - b. The total combined area of all structures, principal and accessory, does not occupy more than sixty (60) percent of the upland area of the required twenty (20) foot shoreline setback;
 - c. Shoreline vegetation is protected and any required district boundary bufferyards are provided;
 - d. Open space ratios are maintained;
 - e. Stormwater runoff from the entire site is managed on-site using Best Management Practices.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. This ordinance shall be filed in the Office of the Secretary of State of the State of Florida but shall not become effective until a notice is issued by the Florida Department of Community Affairs or Administrative Commission approving the ordinance.

Section 6. This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of the Board held on the ____ day of _____, 2005.

Mayor Dixie M. Spehar _____
Mayor Pro Tem Charles "Sonny" McCoy _____
Commissioner George Neugent _____
Commissioner David P. Rice _____
Commissioner Murray E. Nelson _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
Mayor Dixie Spehar

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

DEPUTY CLERK



BOCC STAFF REPORT

MEMORANDUM

TO: Board of County Commissioners

FROM: K. Marlene Conaway, Director, Planning Department

MEETING DATE: June 15, 2005

RE: **AMENDMENT TO SECTION 9.5-349 (SHORELINE SETBACKS) OF
THE MONROE COUNTY LAND DEVELOPMENT REGULATIONS**

I. BACKGROUND

Objective 101.8 of the Monroe County Year 2010 Comprehensive Plan states "Monroe County shall eliminate or reduce the frequency of uses which are inconsistent with the applicable provisions of the land development regulations and the Future Land Use Map, and structures which are inconsistent with applicable codes and land development regulations."

Policy 212.2.3 of the Monroe County Year 2010 Comprehensive Plan states, in part, "Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures shall be set back at least twenty (20) feet as measured from the mean high water line."

Many residential lots on lawfully altered shorelines, especially those smaller lots in Recreational Vehicle Parks established prior to the 1986 Comprehensive Plan, were developed with principal structures built within the twenty (20) foot shoreline setback. Because of the small lot size, it is not possible to replace an existing mobile home with the new larger factory built modular homes and set back the required twenty (20) feet. As a result, while the older home could continue to be maintained it could never be replaced with a FEMA approved raised modular home.

The requirement of the twenty (20) foot setback has other implications in addition to the inability to replace a mobile home with a FEMA approved structure. Many of the smaller lots have homes located in such a way that they are unable to add a deck or stairway to the entrance of a lawfully established principal dwelling because the construction would penetrate the existing shoreline setback. Since there is no possibility of relaxing these setback requirements by permitting a waiver or variance of the current regulations, these requests are currently denied and owners of the smaller lots are subject to an unnecessary burden for which there is no amelioration.

In response to this problem, the Planning and Department proposed a modification to the twenty (20) foot required setback regulations. It proposed that on lots developed with a lawfully established principal use, the setback along lawfully altered shorelines may be reduced to ten (10) feet provided that environmental impacts were minimized.

The Department of Community Affairs (DCA), in a memorandum dated September 3, 2002, indicated that they were amenable to such a modification.

On December 17, 2003, the Board of County Commissioners adopted Ordinance No. 049-2003 and Ordinance 049A-2003, amending Policy 212.2.3 of the Monroe County Year 2010 Comprehensive Plan and Section 9.5-349 of the Land Development Regulations (LDRs) respectively, which provided for a reduction of the shoreline setback for smaller, legally developed lots. The Comprehensive Plan amendments have been approved by the DCA, while the LDR amendments are currently under review by that agency.

These changes have caused some confusion as redevelopment is occurring on lots greater than 4,000 square feet. Many of these lots are being redeveloped with homes much larger than the existing units and causing community concern as the character is changed and water views from adjacent lots are reduced.

Additionally, owners of RV parks have concerns regarding historically utilized reduced setbacks for RV parking in those parks.

In the interest of clarity and comprehensiveness, in order to eliminate conflicts within Section 9.5-349, and in response to the requests of citizens in affected communities, the Planning Department is proposing additional amendments to Sections 9.5-349(b) and 9.5-349(o).

II. PROPOSED TEXT CHANGES

Amended language is presented in ~~strike through~~ / underline format. The previously adopted language is included for clarity and is highlighted.

Monroe County Land Development Regulations

Section 9.5-349(b) of the Monroe County Land Development Regulations is hereby amended as follows;

Section 9.5-349(b)

- (1) Along lawfully altered shorelines including manmade canals, channels, and basins, principal structures shall be set back at least twenty (20) feet as measured from the mean high water (MHW) line, except as allowed in (2), below:

(2) Along lawfully altered shorelines including manmade canals, channels, and basins, which are developed with a lawfully established principal use, the required setback on parcels less than 4,000 square feet may be reduced to a minimum of ten (10) feet provided that;

- a. The total combined area of all structures, principal and accessory, does not occupy more than sixty (60) percent of the upland area of the required twenty (20) foot shoreline setback;
- b. The proposed development protects the character and over water views of the community;
- c. Shoreline vegetation is protected;
- d. Open space ratios are maintained;
- e. Stormwater runoff from the entire site is managed on-site using Best Management Practices utilizing berms and infiltrating runoff;

~~(2)~~ (3)

~~(3)~~ (4)

Section 9.5-349(o) of the Monroe County Land Development Regulations is hereby amended as follows;

Section 9.5-349(o)

- (4) All principal structures lawfully existing within the shoreline setback along manmade canals, channels, or basins, ~~or serving three or fewer dwelling units on any shoreline, on parcels less than 4,000 square feet~~ may be rebuilt in the same footprint provided that there will be no expansion of the footprint within ten (10) feet of the mean high water (MHW) line and there will be no adverse impacts on stormwater runoff, navigation or turtle nesting habitat.
- (5) In licensed RV parks adjacent to manmade canals, channels, or basins, road ready vehicles may be parked no closer than ten (10) feet from the mean high water (MHW) line provided that;
 - a. No previously approved site plan has established shoreline setbacks greater than ten (10) feet from mean high water (MHW) for RV parking;

- b. The total combined area of all structures, principal and accessory, does not occupy more than sixty (60) percent of the upland area of the required twenty (20) foot shoreline setback;
- c. Shoreline vegetation is protected and any required district boundary bufferyards are provided;
- d. Open space ratios are maintained;
- e. Stormwater runoff from the entire site is managed on-site using Best Management Practices.

III. STAFF RECOMMENDATION

Based on the staff findings and the recommendation of the Planning Commission, staff recommends **APPROVAL** of the proposed text changes to Section 9.5-349 of the Monroe County Land Development Regulations.